IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.22948 of 2004

Between:

Kesetty Sagar, S/o. Mr. Pochaiah,
R/o.Village Chinnasiddapur, Bejjur Mandal, District Adilabad.

..... PETITIONER

AND

1 The District Collector (C.S.), Adilabad, Office at Adilabad District.
2 The Asst. Collector, Asifabad, Office at Asifabad, District Adilabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ or order more particularly one in the nature of writ of Mandamus declaring the proceedings No. C/1465/2004, dt.30.10.2004, as *ultra vires*, illegal, void and against the principles of natural justice, in the interest of justice and equity or pass such other order or orders.

Counsel for the Petitioner: MR.A.M.QURESHI

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER:

The petitioner was appointed as a fair price shop dealer of Chinnasiddapur village, Bejjur Mandal, Adilabad District in 1992. The second respondent herein terminated the authorization and also forfeited the security deposit paid by the petitioner. Assailing the said order dated 30.10.2004, the present writ petition is filed.

Though the interlocutory matters are listed, the matter was heard finally and is being disposed of by this order. The petitioner was suspended on the ground that the petitioner closed the fair price shop without prior approval of the appointing authority. The order also passed without considering the explanation to the show cause notice.

Heard the learned Counsel for the petitioner and learned Assistant Government Pleader. A.P. Public Distribution System Control Order, 2001 (hereafter called 'Control Order'), at present, governs the distribution of essential commodities to fair price shops and matters connected therewith. As per clause 2(4) of Control Order, the appointing authority means District Supply Officer in respect of Hyderabad District, District Supply Officer (City) in Visakhapatnam and Revenue Divisional Officer or the Sub Collector concerned in other Districts. Clause 5(4) of the Control Order empowers the appointing authority alone to suspend or cancel the authorization. The second respondent, who is Assistant Collector, is not appointing authority and therefore, the impugned order passed by him terminating the authorization is *ex facie* illegal and void. If so advised, it shall be open to the competent authority to initiate appropriate action against the petitioner for any contravention of the conditions of authorization or the provisions of the Control Order.

The writ petition is, accordingly, allowed. There shall be no order as to costs.

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(**V.V.S.RAO,J**)

28.06.2005

YS

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, Acting Chief Justice on this Tuesday, the Twenty eighth day of June, Two thousand and five.

To

1 The District Collector (C.S.), Adilabad, Office at Adilabad District.
2 The Asst. Collector, Asifabad, Office at Asifabad, District Adilabad.

3 Two CCs to the Government Pleader for Civil Supplies,

High Court Buildings, Hyderabad. (OUT)

4 Two C.D. Copies.